

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JEAN ROBERT SAINT-JEAN, EDITH SAINT-	:	
JEAN, FELEX SAINTIL, YANICK SAINTIL,	:	Hon. Sterling Johnson, Jr.
LINDA COMMODORE, BEVERLEY SMALL,	:	
JEANETTE SMALL, AND FELIPE HOWELL,	:	
	:	
Plaintiffs,	:	Case No. 11-cv-02122 (SJ) (RLM)
	:	
-v-	:	ECF Filing
	:	
EMIGRANT MORTGAGE COMPANY AND	:	
EMIGRANT BANK,	:	
	:	DEFENDANTS' PROPOSED
Defendants.	:	<u>VOIR DIRE QUESTIONS</u>
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Defendants Emigrant Bank and Emigrant Mortgage Company, Inc. ("Emigrant"), by their attorneys, Proskauer Rose LLP and Sullivan & Cromwell LLP, propose that the following questions be used by the Court during the *voir dire* examination of prospective jurors prior to trial:

General Impartiality Questions

1. Your duty will be to listen to the testimony. At the conclusion of the testimony, the Court will instruct you as to what the law is and will charge you to apply those principles of law to the case before you. Do you have any doubt that you will be able to apply the law as I explain it even if you disagree with it?
2. Do you have any ideas or opinions that would prevent or hinder you from following the instructions that I will give as to the law?
3. In the trial of this case, both parties are entitled to have the case decided on the basis of the evidence presented at trial. Is there any reason why any of you might not be able to render a fair damages verdict?
4. Can you agree to wait to hear all of the evidence before forming an opinion as to the damages you may determine are warranted in this case?
5. Is there any reason you would have difficulty judging the evidence with complete indifference to the relative financial circumstances of the parties? If so, please explain.

6. Do you feel inclined to award money damages to one or more of the plaintiffs simply because the defendant is a large company with greater financial resources?
7. Do you feel that you will be able to render a fair verdict on damages without hearing evidence of the underlying merits of the case?

Difficulties in Understanding or Serving

8. This trial is expected to last approximately two weeks. Is there anything about the length of the trial that would prevent you from serving as a juror?
9. Do you feel that jury duty will create a financial hardship for yourself or your family? If so, please explain.
10. Do you have a problem with your hearing or vision that would prevent you from giving attention to all of the evidence at this trial?
11. Do you have any difficulty understanding or reading English?

Participation in the Legal System

12. Have you ever served on a jury before? If yes:
 - a. When?
 - b. In what court?
 - c. What type of case?
 - d. Did you deliberate and reach a verdict?
 - e. Were you the foreperson?
 - f. What did you think of your experience?
13. Have you, or someone close to you ever been involved in a lawsuit, arbitration, grievance or any type of complaint procedure in any way? If yes:
 - a. Please explain
 - b. Was it resolved to your/their satisfaction?
 - c. Did the matter involve the collection of a debt that was owed?

Knowledge of the Parties and Counsel

14. Do you or, to your knowledge, does any member of your immediate family, know the Plaintiffs in this case:

- a. Robert Saint-Jean
 - b. Edith Saint-Jean
 - c. Yanick Saintil
 - d. Felex Saintil
 - e. Linda Commodore
 - f. Felipe Howell
 - g. Beverley Small
 - h. Jeannette Small
15. Are you or is any member of your family or friends, familiar with: Emigrant Bank or Emigrant Mortgage Company? If yes, what is the nature of your knowledge, relationship or association? Would any such relationship or association prevent you from rendering a fair and impartial verdict?
16. Have you, or has any member of your family, or anyone you know, ever been employed by Emigrant Bank or Emigrant Mortgage Company? What kind of work did that person do? Has that person ever expressed an opinion about Emigrant? If so, what opinion?
17. The Plaintiffs in this case are represented by Rachel Geballe of the law firm South Brooklyn Legal Services, John Relman, Reed Colfax, Tara Ramchandani, Yiyang Wu, and Lila Miller of the law firm Relman, Dane & Colfax PLLC, and Michael Calhoun of the law firm Center for Responsible Lending. Do you know or have you had any personal or business dealings with any of these attorneys or their law firms?
18. Emigrant is represented by Bettina Plevan, Evandro Gigante, Harris Mufson, and Rachel Fischer of the law firm Proskauer Rose LLP, and Richard Klapper and Matthew Schwartz of the law firm Sullivan & Cromwell LLP. Do you know, or have you had any personal or business dealings with any of these attorneys or their law firms?
19. Do you have a family member or close friend employed by the law firms of Proskauer Rose, Sullivan & Cromwell, South Brooklyn Legal Services, Relman, Dane & Colfax, or Center for Responsible Lending?
20. Have you seen, read or heard anything about this case before coming here today? If so, what have you seen, read or heard?
21. I am going to read you a list of names of people who may be called as witnesses in this case. Do you know, know about, or have you had any personal or business dealings with any of the proposed witnesses in this case? If so, how do you know the individuals? Do you have any feelings or opinions about such individuals?

- a. Shazeem Alli
- b. Dr. Ian Ayres
- c. Dr. Raphael Bostic
- d. Catherine Cellamare
- e. Dr. Larry Chiagouris
- f. Jack Coll
- g. Linda Coluccio
- h. Dr. Marsha Courchane
- i. Alan Emerson
- j. Judy Every
- k. Dr. Lance Freeman
- l. Dr. Stella Geller
- m. Edward Goldberg
- n. Michael Jackson
- o. Dr. Bernard Lewin
- p. Karen Malek
- q. Dr. Charlton McIlwain
- r. Howard Milstein
- s. Holly Perlowitz
- t. Edmond Tang
- u. Richard Wald
- v. Rebecca Walzak
- w. James Woolsey

Personal Background/Employment/Education

22. Please state your name, age and the town or borough where you live. Please state all prior locations in which you have lived.
23. What is the highest level of education that you completed?
24. Are you single, married, divorced or widowed?
25. Have you or any member of your family or friends ever had any work experience or training in any of the following fields, and if so, who, where, and when?
 - a. The mortgage lending industry
 - b. Accounting or bookkeeping
 - c. Banking
 - d. The real estate industry
 - e. The legal profession (lawyer, paralegal, work in a law office)
 - f. Contracts (writing, interpreting, negotiating, enforcing)
26. State your present occupation and identify your employer, if any. If retired or unemployed, describe your last job, prior work experience, and explain if you are currently seeking work.
27. Have you ever owned your own business or been self-employed? What was/is the nature of your business/self-employment?
28. Briefly describe any organizations you belong to and whether you are actively involved in them?

Questions Regarding Issues in this Case

29. Do you own or have you ever owned a home (including a coop or condominium)?
 - a. If you previously owned a home or other real estate, what is the reason why you no longer own it?
30. Do you own the residence where you currently live or do you rent it?
31. Have you ever applied for a mortgage?
 - a. Was your application accepted?
 - b. If so, were you satisfied with the terms?

32. Have you, or someone close to you, ever made mortgage payments?
33. Have you, or someone close to you, ever gotten behind on mortgage payments?
34. Have you or someone close to you ever been in a situation where you/they were seriously concerned you/they might lose your home?
35. Do you think that banks want to foreclose on people's homes?
36. Have you, or someone close to you, ever tried to have the terms of a loan modified by the lender? Was it a success?
37. Have you, or someone close to you, thought seriously about buying a home but decided it was too expensive?
38. Have you, or someone close to you ever taken out a larger mortgage than you/they should have?
39. Have you, or someone close to you, ever had your/their home foreclosed on by a lender?
40. Have you, or someone close to you, ever had a possession repossessed because of failure to make payments?
41. Have you, or someone close to you, ever been misled on the terms of a contract? Were you/they harmed as a result?
42. Have you or anyone you have known ever believed that their mortgage loan was unfair or unlawful? If so, please explain.
43. Do you know your credit score?
 - a. Have you or someone close to you ever had difficulty making a purchase due to your/their credit score?
 - b. Have you or someone close to you ever had difficulty getting a loan due to your/their credit score?
44. Have you or anyone you have known ever been involved in any dispute with a bank, mortgage broker or mortgage lender?
 - a. If so, explain.
 - b. If so, when did you have such a dispute?
 - c. How was the dispute resolved, and how do you feel about the resolution?
45. Have you ever had a negative experience with a bank or lender?

46. Have you or a family member or a business in which you have an ownership interest, ever filed a petition for bankruptcy, or been the subject of an involuntary petition for bankruptcy?
- a. If so, explain the circumstances that led to the filing.
 - b. If so, under what chapter of the Bankruptcy Code (e.g., 7, 13 or 11) was the petition filed?
 - c. If so, is the case pending, and if not, what was the resolution of that filing (i.e., Was the case dismissed or was the debtor granted a discharge?)

Personal Biases

47. Do you feel strongly that corporations should not be entitled to the same treatment as individuals in the eyes of the law? Explain.
48. Do you have any personal feelings about Emigrant Bank or Emigrant Mortgage Company? If yes, what feelings do you have?
49. Do you have any personal opinions about banks, mortgage brokers, or the mortgage lending industry that might influence your ability to be fair and impartial in this case?

Concluding Questions

50. Having heard that a prior jury found liability, could you nevertheless award no damages if the Plaintiffs are unable to prove that they suffered damages? Do you know of any fact or reason, that has not been raised, which would tend to make you unsuitable to sit in this case?
51. Do you have any religious or ethical beliefs that would prevent you from passing judgment on another person or company?
52. Is there any reason that you will be unable to render a fair and impartial damages verdict based solely upon the evidence presented in Court and under the law as the Judge instructs you, even if you disagree with the law?
53. Is there any reason that any of you, having heard what this case is about, and having heard who the parties to this case are, would like or not like to serve as a juror in this case? If so, please explain.

Dated: March 19, 2019
New York, New York

PROSKAUER ROSE LLP

/s/ Bettina B. Plevan

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